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13	Institute for Fisheries Resources		
14	LINITED STATES	DISTRICT COURT	
15	FOR THE EASTERN DISTRICT OF CALIFORNIA		
16			
17	PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS, et al.,	Case No. 1:20-cv-00431-DAD-EPG	
18		REQUEST AND ORDER TO EXCUSE LATE FILING PURSUANT TO LOCAL	
19	Plaintiffs,	RULE 134(c) TECHNICAL FAILURE	
20	V.	Judge Hen Dele A Drozd	
	WILBUR ROSS, in his official capacity as Secretary of Commerce, <i>et al.</i> ,	Judge: Hon. Dale A. Drozd	
21		Courtroom 5, 7th Floor 2500 Tulare Street	
22	Defendants.	Fresno, CA 93721	
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Pursuant to Local Rule 134(c)(1), Plaintiffs Golden State Salmon Association, Natural Resources Defense Council, Inc., Defenders of Wildlife, Bay.Org d/b/a The Bay Institute, Pacific Coast Federation of Fishermen's Associations and Institute for Fisheries Resources (collectively "Plaintiffs") do and hereby request that the Court excuse the late filing of, and accept as filed, the two documents filed at Dkts. 239 and 239-1, which may have been filed a few minutes past the filing deadline as a result of a technical failure of the Court's CM/ECF site. See CM/ECF notification of filing for Dkts. 239 and 239-1 (indicating that the "transaction was entered" at 0:02 a.m. on December 19, but "filed on December 18, 2020)."

There is good cause to excuse the late filing of these documents because, as described in further detail below, there was a technical failure of the Court's CM/ECF website that lasted more than two hours on the evening of December 18, 2020. Local Rule 134(c)(1). This caused significant delays in Plaintiffs' ability to upload and file the more than two hundred documents associated with Plaintiffs' Motion to Complete the Administrative Records or, in the Alternative, Supplement the Administrative Records ("Motion to Complete the Administrative Records") (Dkt. 224). Plaintiffs ultimately were able to timely file all but one exhibit (split into two parts, Exh. 161A-1 and Exh. 161A-2), *see* Dkt. 239, as a result of diligent and continued efforts to file documents over a span of more than seven hours.

The delay in filing this exhibit was a result of the significant delays in filing that were caused by the CM/ECF site's technical failure. Specifically, while Plaintiffs were in the process of filing all of the Exhibits associated with their Motion to Complete the Administrative Records, the CM/ECF site began continuously and repeatedly crashing. Plaintiffs repeatedly attempted to upload batches of exhibits for filing, but before any filing could be completed, the site would crash and the process of uploading each exhibit to CM/ECF for filing would have to be re-started. After an hour of such failed attempts and site crashes, Plaintiffs were able to file two small batches of ten

<sup>&</sup>lt;sup>1</sup> Local Rule 134(c) defines a technical failure of the CM/ECF site as a scenario in which "the site is unable to accept filings continuously or intermittently over the course of any period of time greater than two hours after 2:00 p.m. on a given day." Local Rule 134(c)(1) directs parties with untimely filings due to CM/ECF failure to "file the document as promptly as possible and seek appropriate relief from the Court."

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exhibits, see Dkts. 230 (filed at 8:21 p.m., one hour after Dkt. 229, filed at 7:21 p.m.) and 231 1 (filed at 8:28 p.m.), but then were again unable to successfully file any documents despite repeated and continuous attempts until nearly another hour later, see Dkt. 232 (filed at 9:21 p.m.). 4 Given these filing delays and difficulties, and in order to avoid any potential prejudice to 5 other Parties that could potentially result from late-filing of these documents, Plaintiffs prioritized filing their Notice of Request to Seal and Memorandum of Points and Authorities in support of 6 7 Plaintiffs' Motion to Complete the Administrative records, and were ultimately able to do so at 8 10:41 p.m. and 10:55 p.m. See Dkts. 233, 234. Plaintiffs then resumed filing the remainder of the 9 Exhibits and were able to timely file all documents except for Exhibits 161A-1 and 161A-2, which were filed three minutes past the filing deadline. See Dkt. 239. Plaintiffs do not believe the fact 10 that this one exhibit was filed three minutes late caused prejudice to any of the parties. 11 12 Although the Court's CM/ECF notification indicates that Dkt. 239 and Dkt. 239-1 were 13 "filed" on December 18, 2020, because the transaction was entered two minutes after midnight, 14 Plaintiffs in an abundance of caution request that the Court excuse the late filing as a result of the CM/ECF site's technical failure and accept these documents as filed pursuant to Local Rule 15 16 134(c)(1). 17 18 19 Respectfully submitted, DATED: December 21, 2020 20 /s/ Barbara J. Chisholm Barbara J. Chisholm 21 HAMILTON CANDEE (SBN 111376) 22 BARBARA JANE CHISHOLM (SBN 224656) ELIZABETH VISSERS (SBN 321365) 23 ALTSHULER BERZON LLP 177 Post St., Suite 300 24 San Francisco, CA 94108 Telephone: (415) 421-7151 Facsimile: (415) 362-8064 25 26 Attorneys for Plaintiffs Golden State Salmon Association, Natural Resources Defense Council, Inc., Defenders of Wildlife, and Bay. Org d/b/a The 27 Bay Institute

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1	DATED: December 21, 2020	/s/ Glen H. Spain Glen H. Spain
2		GLEN H. SPAIN (SBN 111376)
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5		Attorney for Plaintiffs Pacific Coast Federation of Fishermen's Associations and Institute for Fisheries Resources
6		Resources
7 8		ORDER
9	Pursuant to Local Rule 134(c)(1), and good cause having been shown, the court hereby	
10	excuses any late filing of, and accepts as filed, the two parts of Exhibit 161A filed by Plaintiffs at	
11	Dkts. 239 and 239-1.	
12	DKts. 237 tild 237 1.	
13	IT IS SO ORDERED.	
		Dale A. Dragd
14	Dated: <b>December 31, 2020</b>	UNITED STATES DISTRICT JUDGE
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